

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY APRIL 13, 2009

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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 822

Introduced by Assembly Member Fletcher
(Coauthor: Senator Wyland)

February 26, 2009

An act to ~~amend Section 1276 of, and to add Chapter 2 (commencing with Section 101990) to Part 6 of Division 101 of the Health and Safety Code, relating to health facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 822, as amended, Fletcher. Health facilities: program flexibility.

Under existing law, the State Department of Public Health has licensing authority over several categories of clinics and health facilities, including ~~hospital~~ *general acute care hospitals*. Existing law requires the building standards published in the California Building Standards Code and the regulations adopted by the department to prescribe standards for adequacy, safety, and sanitation of the physical plant, of appropriate staffing, and of services, based on the type of health facility and the needs of the persons served. ~~These regulations are required to permit program flexibility in various contexts, as long as statutory requirements are met, and the use has the prior written approval of the department or of the Office of Statewide Health Planning and Development.~~

~~Existing law requires the department to develop a standardized form and format for requests by health facilities for program flexibility.~~

~~Health facilities shall thereafter apply to the department for program flexibility in the prescribed manner. After the department receives a complete application requesting program flexibility, it is required to approve, approve with conditions or modifications, or deny the application within 60 days. Denials and approvals with conditions or modifications are required to be accompanied by an analysis and a detailed justification for any conditions or modifications imposed.~~

~~This bill would require the department to approve or approve with conditions or modifications a complete application requesting program flexibility for the use of alternate concepts, methods, procedures, techniques, or equipment by a general acute care hospital whenever the hospital demonstrates to the department that this use meets or exceeds the quality of care and patient safety in effect on January 1, 2010.~~

~~The bill would also require the department to establish the Innovative Technology Acuity-Adaptable Care Delivery Pilot Program to gather clinical data on, and provide general acute care hospitals experience with, the ability to use alternate concepts, methods, procedures, techniques, equipment, and care in addition to what is authorized pursuant to specified regulations, but meet certain statutory requirements provide at least 2 but not more than 10 general acute care hospitals with the ability to use licensed intensive care beds as step-down and medical surgical beds interchangeably, based on the acuity of the patient, as provided. It would require, by January 1, 2014 2015, the department to prepare and submit a report to the Legislature on the pilot program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 all of the following:
- 3 (1) The provision of health care in general acute care hospitals
- 4 has improved dramatically in recent years, due in part to innovative
- 5 technological and methodological advances in health care that
- 6 have greatly improved patient outcomes.
- 7 (2) California's hospital licensing regulations, found in Division
- 8 5 of Title 22 of the California Code of Regulations, were adopted
- 9 in 1976. Although there have been limited revisions over the past
- 10 decades, the regulations have not kept pace with state-of-the-art

1 technology, equipment, and practices now available to provide
2 optimum patient care.

3 (3) Due to these outdated regulations, California hospitals are
4 not able to provide patients with some of the cutting-edge
5 technology, equipment, procedures, and care that are available
6 elsewhere.

7 (4) It is appropriate to gather clinical data and experience in
8 California regarding the state-of-the-art technology, equipment,
9 procedures, and care now available.

10 (b) It is the intent of the Legislature that the State Department
11 of Public Health develop and implement the ~~Innovative Technology~~
12 *Acuity-Adaptable Care Delivery* Pilot Program for the purposes
13 specified in subdivision (a) of Section 101990 of the Health and
14 Safety Code.

15 *SEC. 2. Chapter 2 (commencing with Section 101990) is added*
16 *to Part 6 of Division 101 of the Health and Safety Code, to read:*
17

18 *CHAPTER 2. HEALTH FACILITY INNOVATION*
19

20 *101990. (a) The State Department of Public Health shall*
21 *establish the Acuity-Adaptable Care Delivery Pilot Program to*
22 *provide a general acute care hospital, as defined in subdivision*
23 *(a) of Section 1250, the ability to use licensed intensive care beds*
24 *as step-down and medical surgical beds interchangeably based*
25 *upon the acuity of the patient, including the use of technology,*
26 *equipment, procedures, techniques, and concepts that support this*
27 *model of care.*

28 *(b) Utilization of technology, equipment, procedures, techniques,*
29 *and concepts that support the acuity-adaptable care delivery model*
30 *shall be consistent with safe, therapeutic, and effective care that*
31 *promotes patient safety. Deployment of technology shall not*
32 *prevent a health care provider from following accepted practice*
33 *standards, including, but not limited to, the use of clinical judgment*
34 *in the assessment, evaluation, planning, and implementation of*
35 *care, or from acting as a patient advocate.*

36 *(c) The department shall identify alternate technology,*
37 *equipment, procedures, techniques, and concepts, giving special*
38 *consideration to the use of acuity-adaptable nursing units and*
39 *beds that will promote innovation and improvement in service and*
40 *patient care.*

1 (d) The department shall solicit and accept proposals from
2 general acute care hospitals to participate in the pilot program.

3 (e) The department shall, by October 1, 2011, authorize at least
4 two, but not more than 10, general acute care hospitals identified
5 by the department or proposed by a hospital pursuant to
6 subdivision (d) to use licensed intensive care beds as step-down
7 and medical surgical beds interchangeably based on the acuity of
8 the patient, including the use of technology, equipment, procedures,
9 techniques, and concepts that support this model of care. At least
10 one authorized general acute care hospital shall be located within
11 the County of San Diego and shall be associated with a
12 two-hospital system operated by a health care district.

13 (f) A general acute care hospital participating in the pilot
14 program shall comply with the staffing requirements for licensed
15 nurses set forth in Section 1276.4 based on the acuity of the patient
16 and not the licensed bed category and physical location of the
17 patient.

18 (g) The department may charge a participating general acute
19 care hospital an annual fee that does not exceed the amount of the
20 direct costs to the department of overseeing and evaluating the
21 pilot program. The money collected from this fee shall be deposited
22 in the State Department of Public Health Licensing and
23 Certification Program Fund.

24 (h) A participating general acute care hospital shall consult
25 with the Office of Statewide Health Planning and Development if
26 the hospital's physical building is involved in the use of technology,
27 equipment, procedures, techniques, and concepts that support the
28 acuity-adaptable care delivery model.

29 (i) A general acute care hospital participating in the pilot
30 program may be required to undergo an annual review of the
31 outcome of the pilot program, including, but not limited to, an
32 onsite inspection by the department. The department may require
33 an independent evaluation by an expert, subject to conflict of
34 interest requirements, on an annual basis to evaluate the clinical
35 outcome in terms of quality and patient safety, as well as worker
36 safety.

37 (j) By January 1, 2015, the department shall prepare and submit
38 a report to the Legislature on the results of the pilot program and
39 its impact upon the quality of service and patient care.

1 SEC. 2. ~~Section 1276 of the Health and Safety Code is amended~~
2 ~~to read:~~

3 ~~1276. (a) The building standards published in the State~~
4 ~~Building Standards Code by the Office of Statewide Health~~
5 ~~Planning and Development, and the regulations adopted by the~~
6 ~~department shall, as applicable, prescribe standards of adequacy,~~
7 ~~safety, and sanitation of the physical plant, of staffing with duly~~
8 ~~qualified licensed personnel, and of services, based on the type of~~
9 ~~health facility and the needs of the persons served thereby.~~

10 ~~(b) These regulations shall permit program flexibility by the~~
11 ~~use of alternate concepts, methods, procedures, techniques,~~
12 ~~equipment, personnel qualifications, bulk purchasing of~~
13 ~~pharmaceuticals, or conducting of pilot projects as long as statutory~~
14 ~~requirements are met and the use has the prior written approval of~~
15 ~~the department or the office, as applicable. The approval of the~~
16 ~~department or the office shall provide for the terms and conditions~~
17 ~~under which the exception is granted. A written request plus~~
18 ~~supporting evidence shall be submitted by the applicant or licensee~~
19 ~~to the department or office regarding the exception, as applicable.~~

20 ~~(c) While it is the intent of the Legislature that health facilities~~
21 ~~shall maintain continuous, ongoing compliance with the licensing~~
22 ~~rules and regulations, it is the further intent of the Legislature that~~
23 ~~the department expeditiously review and approve, if appropriate,~~
24 ~~applications for program flexibility. The Legislature recognizes~~
25 ~~that health care technology, practice, pharmaceutical procurement~~
26 ~~systems, and personnel qualifications and availability are changing~~
27 ~~rapidly. Therefore, requests for program flexibility require~~
28 ~~expeditious consideration.~~

29 ~~(d) (1) The department shall, on or before April 1, 1989,~~
30 ~~develop a standardized form and format for requests by health~~
31 ~~facilities for program flexibility. Health facilities shall thereafter~~
32 ~~apply to the department for program flexibility in the prescribed~~
33 ~~manner. After the department receives a complete application~~
34 ~~requesting program flexibility, it shall have 60 days within which~~
35 ~~to approve, approve with conditions or modifications, or deny the~~
36 ~~application. Denials and approvals with conditions or modifications~~
37 ~~shall be accompanied by an analysis and a detailed justification~~
38 ~~for any conditions or modifications imposed. Summary denials to~~
39 ~~meet the 60-day timeframe shall not be permitted.~~

~~(2) Notwithstanding paragraph (1), the department shall approve or approve with conditions or modifications a complete application requesting program flexibility for the use of alternate concepts, methods, procedures, techniques, or equipment by a general acute care hospital whenever the hospital demonstrates to the department that this use meets or exceeds the quality of care and patient safety in effect on January 1, 2010.~~

~~(e) Notwithstanding any other provision of law or regulation, the department shall provide flexibility in its pharmaceutical services requirements to permit any state department that operates state facilities subject to these provisions to establish a single statewide formulary or to procure pharmaceuticals through a departmentwide or multidepartment bulk purchasing arrangement. It is the intent of the Legislature that consolidation of these activities be permitted in order to allow the more cost-effective use and procurement of pharmaceuticals for the benefit of patients and residents of state facilities.~~

~~SEC. 3. Chapter 2 (commencing with Section 101990) is added to Part 6 of Division 101 of the Health and Safety Code, to read:~~

~~CHAPTER 2. HEALTH FACILITY INNOVATION~~

~~101990. (a) The State Department of Public Health shall establish the Innovative Technology Pilot Program to gather clinical data on, and provide general acute care hospitals, as defined in subdivision (a) of Section 1250, experience with, the ability to use alternate concepts, methods, procedures, techniques, equipment, and care in addition to what is authorized pursuant to regulations adopted pursuant to Chapter 2 (commencing with Section 1250) of Division 2 in effect on January 1, 2010, but otherwise meet the statutory requirements of that chapter.~~

~~(b) The department shall identify alternate concepts, methods, procedures, techniques, equipment giving special consideration to the use of acuity-adaptable nursing units and beds, or care that the department determines will promote innovation and improvements in services and patient care. The department shall also solicit and receive proposals from general acute care hospitals to use alternate concepts, methods, procedures, techniques, equipment, and care that will promote innovation and improvements in services and patient care.~~

(e) ~~By January 1, 2014, the department shall prepare and submit a report to the Legislature on the results of the pilot program and its impact upon the quality of service and patient care.~~

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